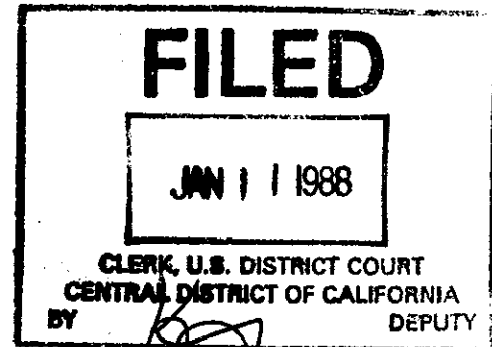


1 ROBERT C. BONNER
United States Attorney
2 ROBERT L. BROSIO
Assistant United States Attorney
3 Chief, Criminal Division
ROEL CAMPOS
4 Assistant United States Attorney
Major Narcotics Section
5 1400 United States Courthouse
312 North Spring Street
6 Los Angeles, California 90012
Telephone: (213) 894-6682

7
8 Attorneys for Plaintiff
United States of America



9 UNITED STATES DISTRICT COURT

10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

11 UNITED STATES OF AMERICA,) No. CR 87-422(A)
12 Plaintiff,)
13) MOTION FOR LOW-NUMBER ASSIGNMENT;
14) MEMORANDUM OF POINTS AND
15 v.) AUTHORITIES; DECLARATION;
16) EXHIBITS
17)
18 RAFAEL CARO-QUINTERO,)
19 et al.,)
20 Defendants.)

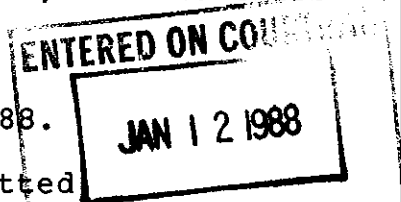
21 Plaintiff, the United States of America, by its counsel of
22 record, hereby files its motion for low-number assignment of this
23 case to Judge Rymer's court, where related case No. CR 87-919-PAR
24 is pending. This motion is based on the attached memorandum of
25 points and authorities, declaration and exhibits, and the files
26 and records of this case.

27 DATED: This 8th day of January, 1988.

28 Respectfully submitted


ROBERT C. BONNER
United States Attorney

RCC:bzb:jrr



(15)

1 ROBERT L. BROSIO
2 Assistant United States Attorney
3 Chief, Criminal Division

4 
5 ROEL CAMPOS
6 Assistant United States Attorney
7 Major Narcotics Section

8 Attorneys for Plaintiff
9 United States of America
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DECLARATION OF ROEL CAMPOS

I, ROEL C. CAMPOS, hereby declare as follows:

1. I am an Assistant United States Attorney for the Central District of California. I, along with Assistant United States Attorney Jimmy Gurule, have been assigned to prosecute United States v. Raul Lopez, et al., CR 87-919-PAR, as well as the current case before the Magistrate for Post Indictment Arraignment, United States v. Rafael Caro-Quintero, et al., CR 87-422(A).

2. As Assistant United States Attorneys, we have a duty under Local Rule 2, subsection 3, to advise the court of matters to which General Order 224 applies so that those matters can be assigned to the docket of the judge with the low-numbered case to which the new case is related. (In this instance the number of the older case is higher because the original indictment in the Caro-Quintero case was under seal for several months.)

3. I believe that the low-number rule applies to these matters, based on the objectives sought to be achieved by the rule.

4. I am aware of several precedents in this district that support application of the rule: United States v. Swann and McCollum Sr., No. CR 85-187 and United States v. Paul Terry Nichols, CR 87-711-DT.

1 5. I learned from Assistant United States Attorney David
2 Katz that he obtained the tape of the hearing before Magistrate
3 McMahon in the Swann and McCollum Sr. case and prepared a
4 transcript of the hearing at which argument was had on the issue
5 of whether that case was "low-numerable" where the charges were
6 substantially identical but there were no common defendants. (See
7 Exhibit A.)


8 6. In the case of United States v. Paul Terry Nichols, et
9 al., CR 87-711-DT, defendant Paul Terry Nichols and four
10 co-defendants were charged in a 31 count indictment alleging
11 violations of 21 U.S.C. § 848: Conducting a Continuing Criminal
12 Enterprise; 21 U.S.C. § 846: Conspiracy to Manufacture and
13 Distribute Methamphetamine; 21 U.S.C. § 841(a)(1): Distribution
14 and Possession with Intent To Distribute Methamphetamine; 18
15 U.S.C. § 1952: Travel In Aid of Racketeering, and 26 U.S.C.
16 § 7201: Income Tax Evasion. (Exhibit C).

17 7. In United States v. Patric Henry Stewart, case number CR
18 87-709-DT, defendant Patric Henry Stewart was charged alone with
19 possession of an unregistered firearm, a .9 mm Uzi rifle, in
20 violation of 18 U.S.C. § 5861(d) (Exhibit D). Defendant Patric
21 Henry Stewart was also charged in the Paul Terry Nichols case.
22 Consequently, the government filed a notice of related cases and
23 sought to low number the Nichols case; CR 87-711-DT, to the
24 Stewart case, CR 87-709-DT. The government argued before District
25 Court Judge Dickran Tevrizian, the judge assigned the Stewart
26 case, that evidence seized pursuant to the execution of a search
27 warrant of defendant Stewart's residence would be introduced in
28

1 each case. There was further reason to believe that the legality
2 of the search warrant would be challenged in each case. In the
3 interests of judicial economy, i.e., to preclude arguing the
4 Fourth Amendment issue before two different district court judges,
5 the court held that low numbering was appropriate even though
6 there was not a majority of common defendants in the Nichols case.

7 I swear under penalty of perjury that the above statements are
8 true and correct.

9 DATED: This 9th day of January, 1988.

10
11 
12 ROEL CAMPOS
13 Assistant United States Attorney
14 Major Narcotics Section
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MEMORANDUM OF POINTS AND AUTHORITIES

I

ARGUMENT

A. THE LOW NUMBER RULE

General Order 224, section 8.6.1 provides that when an indictment is filed concerning a defendant:

- "(1) arising out of the same transaction or series of transactions;
- (2) involving the same defendant; or
- (3) for other reasons would entail a substantial duplication of labor if heard by a different judge"

the matter shall be assigned to the calendar of the judge having the low-numbered indictment (in this situation - the older case) subject to the reservation provided in paragraph 8.6.2.

It is clear that the Rule 8.6.1 is written in the disjunctive and that any of the three reasons under Rule 8.6.1. are grounds for "low numbering" a case. Section 8.6.2. of General Order 224 provides that where the original indictment and the later filed indictment "does not have a majority of common defendants, this rule shall not apply." (See Exhibit B).

The government first submits that Rule 8.6.2 only limits the second provision of Rule 8.6.1, but not subsections 1 and 3. That was the finding of Magistrate McMahon in the Swann and McCollum case. The basis for that conclusion is apparent. Subsections 1 and 3 are intended for the purpose of promoting judicial economy and preventing the potential for inconsistent rulings within the district over identical issues.

1 Rule 8.6.2, like subsection 8.6.1, subsection (2), refers to
2 the number of defendants. Promoting judicial economy is not the
3 purpose of either of those provisions. Instead, the General Order
4 seeks to avoid a completely different situation, as presented to
5 Magistrate McMahon in the Swann and McCollum case. (See Ex. A, p.
6 8).

7 For example, assume defendant robbed bank A and bank B. In
8 robbing bank B, defendant 1 obtains the assistance of defendants 2
9 and 3. Assume also that because of the earlier development of
10 evidence, the government first filed an indictment for the robbery
11 of Bank A. Further, while the prosecution for bank A is still
12 pending, the government filed the second indictment for the
13 robbery of bank B. In that hypothetical situation, Rule 8.6.2
14 appropriately prevents the assignment of the bank B robbery case
15 to the first court.

16 In that situation there is no gain or efficiency to the system
17 to assign the second case to the first court. That is the sole
18 purpose of Rule 8.6.2. It was never intended to undermine the
19 efficiencies sought under subsections 1 and 3 of Rule 8.6.1. The
20 efficiencies sought under those subsections are not dependent upon
21 the number of common defendants. Therefore, as Magistrate McMahon
22 and, more recently Judge Tevrizian in the Nichols case, concluded
23 the only logical interpretation of Rule 8.6.2. is that it only
24 applies to subsection (2) of Rule 8.6.1.

1 In the Caro-Quintero case defendant Raul Lopez-Alvarez is a
2 common defendant in both cases. As discussed below, there would
3 be "substantial duplication of labor" if the second case is not
4 assigned to Judge Rymer, as provided under subsection 3 of Rule
5 8.6.1. Moreover, the Court of Appeals for the Ninth Circuit has
6 held that local district court decisions pertaining to local rules
7 should be accorded extreme deference. United States v. Mouzin,
8 785 F.2d 682 (9th Cir. 1986) (Local rules should be interpreted by
9 local judges [U.S. Dist. Ct. Rules C.D. Cal., Rule 2.6.2] and will
10 not be overruled by Court of Appeals unless contrary to Court of
11 Appeals orders or the Constitution).

12 B. The Caro-Quintero Case Should Be Low Numbered To Avoid
13 The Duplication of Labor Created If Heard by Another
14 Judge.

15 In the Lopez-Alvarez case the government intends to introduce
16 at trial the taped recordings of five undercover meetings wherein
17 defendant Lopez discussed the murder-for-hire of a Special Agent
18 with the United States Customs Service, as well as numerous
19 related taped telephone conversations. In addition, the English
20 transcripts of the conversations in Spanish will be introduced
21 into evidence. The combined taped recordings are approximately
22 six hours in length and constitute approximately 500 pages of
23 transcripts. Moreover, the government will likely seek to
24 introduce the post-arrest statements of defendant Lopez.

1 It should be emphasized that during these undercover meetings,
2 defendant Lopez further discussed his role in the abduction,
3 interrogation, torture and murder of Special Agent Enrique
4 Camarena. Consequently, the undercover tapes will also be
5 introduced at trial in the Caro-Quintero case. Likewise, during
6 Lopez' post-arrest statements he made certain admissions that the
7 government maintains are admissible at trial in both the Lopez and
8 the Caro-Quintero case. Consequently, the admissibility of the
9 undercover tapes, transcripts and post-arrest statements are
10 issues that will be raised in both cases.

11 It is furthermore anticipated that issues relating to the
12 disclosure of the confidential informant, entrapment, outrageous
13 government misconduct and the admissibility of similar bad acts
14 under Rule 404(b) will be raised in both cases. As related to the
15 issue of the disclosure of the confidential informant, there
16 remain serious safety considerations regarding the disclosure and
17 production of the informant. Assigning the cases to different
18 judges could potentially result in having to disclose the
19 informant twice for in camera Ordonez examinations by the court to
20 determine whether disclosure of the informant is material and
21 helpful to the defense. Consequently, in addition to enhancing
22 the interests of judicial economy and avoiding the potential of
23 inconsistent court rulings, assigning the cases to the same judge
24 would preclude having to disclose the informant twice for in
25 camera examinations. Finally, assigning the cases to the same
26 court would avoid calendaring problems between different courts.

Exhibit A

Exhibit A

(A)

1 TG: ATTORNEY TONY GLASSMAN

2 DK: ASSISTANT UNITED STATES ATTORNEY DAVID A. KATZ

3 THE COURT: MAGISTRATE JAMES W. MCMAHON

4
5 [Appearances of Counsel]

6 TG: The purpose of my appearance this morning is
7 simply to inform the court that I believe that the
8 notice of request for low-number treatment of this
9 case back to Judge Real is not well taken, for the
10 simple reason that under Rule 8.6.2, which your Honor
11 reviewed earlier this morning, it would be
12 inappropriate for the reason that Mr. Swann and Mr.
13 McCollum Sr. are the only defendants named in the
14 indictment before this court, namely, CR 85-187, and
15 the earlier indictment, that ultimately was assigned to
16 Judge Real, had three defendants, or a majority of the
17 defendants in the related case: Mr. Russell, Mr.
18 McCollum, Jr. and Mr. Porzio. That original case, in
19 addition, was, as I understand it, originally assigned
20 to Judge Whelan, who was then unable to take the pleas
21 tendered by the three defendants because of illness,
22 and Judge Real took pleas and sentenced those three
23 defendants.
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25
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28

1 TG: ATTORNEY GLASSMAN

2 DK: ASSISTANT UNITED STATES ATTORNEY KATZ

3
4
5 DK: Your Honor, I would just like a chance to be heard
6 on this matter.

7 * * *

8 Under the low number rule, first of all, we're
9 referring of course to General Order 224. And in the
10 local criminal rules that would be Rule 2, Section 2.3,
11 it talks about notice of related matters in criminal
12 cases, and it says the United States Attorney shall
13 have the duty to advise the court or arraignment
14 magistrate of any matter to which paragraph 8.6.1
15 through 8.6.4 of Gen. Order 224 shall apply. I believe
16 that Section 8.6.2 is a limitation on 8.6.1, the second
17 section there. The court has the rule in front of it.

18
19 THE COURT: Give me the facts, there's a case pending in front
20 of . . .

21 DK: This is essentially a substantially identical case
22 to the earlier one on which Chief Judge Real took all
23 the pleas and imposed all the sentences. The only
24 proceeding had before Judge Whelan, the only one, was
25 the trial setting. After that, there were six
26
27
28

1 TG: ATTORNEY GLASSMAN

2 DK: ASSISTANT UNITED STATES ATTORNEY KATZ

3
4 different hearings and proceedings in front of Chief
5 Judge Real.

6
7 Why is this substantially identical? It is
8 substantially identical and therefore falls under the
9 first provision talking about where an indictment is
10 filed concerning a defendant arising out of the same
11 transaction or series of transactions. Essentially
12 what occurred was that there were three people in the
13 earlier case, the case was called United States v.
14 James Dean McCollum Jr. That was the son of James Dean
15 McCollum Sr. who stands before this Court now. In the
16 course of that case the defendants James Dean McCollum
17 Jr., Richard Russell, and a Leonard Porzio cooperated
18 with the government and they basically said, "Yes, I
19 was involved in this mail fraud scheme, and, yes, I was
20 involved in these counts, but the people who were
21 pulling the strings were the two defendants here Delmar
22 Swann and McCollum Sr. So basically what we have here
23 are 17 counts which are identical. I've made a few
24 language changes. Every assistant expresses himself in
25 his own way, but except for stylistic changes, this is
26 the identical indictment that was before Chief Judge
27 Real.
28

1 TG: ATTORNEY GLASSMAN

2 DK: ASSISTANT UNITED STATES ATTORNEY KATZ

3
4
5 I believe that the limitation of 8.6.2 is a
6 limitation on the second provision which talks about
7 where an indictment is filed involving the same
8 defendant. In that situation where you say "look this
9 defendant robbed bank A and he also robbed bank B and
10 when he robbed bank B, we want to low-number that case,
11 and involved in that case were Mr. X and Y as well as
12 this first fellow," then I believe we run into the
13 problem . . .

14 MM: That's what Cornell Price's situation was [earlier
15 that same morning, where a low-number request was
16 denied,] a string of bank robberies.

17
18 DK: Then we run into the problem with 8.6.2. The
19 problem is . . .

20
21 MM: So you're saying 8.6.2 really limits 8.6.1
22 subsection 2, but not subsection 1 and 3.

23
24 DK: Precisely, here we have identical cases. Chief
25 Judge Real became familiar with this case inside and
26

1 TG: ATTORNEY GLASSMAN

2 DK: ASSISTANT UNITED STATES ATTORNEY KATZ

3
4
5 out, the identical case that is now before the court,
6 and the only thing new are two obstruction of justice
7 counts and they involve his attempt to obstruct justice
8 in attempting to influence the testimony of Richard
9 Russell about his, defendant Swann's, participation in
10 this identical scheme. This is clearly an
11 appropriately low-numbered case.

12
13 Then the question becomes, why not low-number it
14 to Judge Whelan? Normally, we would, but we might as
15 well low-number it in that case to almost anybody in
16 the building. The point of this is to avoid
17 unnecessary duplication of labor.

18 THE Judge Whelan is still sick?

19 COURT:

20
21 DK: Judge Whelan is still sick, and he knows nothing
22 about this case. There was one hearing, the trial
23 setting, before Judge Whelan. Then, on January 18,
24 1985 we took one plea in front of Judge Real.
25
26
27
28

1 TG: ATTORNEY GLASSMAN

2
3 DK: ASSISTANT UNITED STATES ATTORNEY KATZ

4
5 On January 21, 1985 we took another plea in front
6 of Judge Real. On February 4, 1985 we took a third
7 plea, and we then had three separate sentencings and
8 the last sentencing was one week ago today.

9
10 I'm repeating myself now, but Chief Judge Real became
11 intimately familiar with this case. This is just the
12 sort of situation the low number rule was concerned
13 with, unnecessary duplication of labor.

14 TG: The problem is, as counsel has conceded, this
15 matter was originally assigned under the language of
16 the rule to Judge Whelan, who is not, as I understand
17 it, disabled; I don't know whether he's among those to
18 whom you are sending cases this morning. Beyond that,
19 we have two separate felony counts charged against Mr.
20 Swann of obstruction of justice. These have never been
21 before Judge Real, and hopefully will never be before
22 him because, appropriately, when you review those facts
23 along with 8.6.2. this matter must be assigned from the
24 wheel to whichever judge comes out. It's not an
25 appropriate case for a low-number assignment.
26
27
28

1 TG: ATTORNEY GLASSMAN

2 DK: ASSISTANT UNITED STATES ATTORNEY KATZ

3
4 THE I, having reviewed 8.6.1 and 8.6.2, I read 8.6.2
5 COURT: as Mr. Katz suggests, limiting subsection 2 of 8.6.1.
6 It makes no sense for it to limit subsection 1 or
7 subsection 3. Therefore, I read the sense of 8.6.1 and
8 8.6.2 to be that this case should be assigned to Judge
9 Real. I will so intend and the record will reflect
10 your remarks for whatever purpose and effect you intend
11 them to be.
12

13
14 TG: I just wanted to note our objection to the
15 record. Counsel will review that at the appropriate
16 time.

17
18 THE Your objection is noted.

19 COURT:

20 * * *

21
22 [Arraignment]

23
24 THE All right, this case is assigned to Chief Judge
25 COURT: Real pursuant to 8.6.1. and 8.6.2 of General Order No.
26 224 and the matter is set before Judge Real at 11:30
27 this morning, Courtroom 8 on the second floor
28

1 TG: ATTORNEY GLASSMAN

2 DK: ASSISTANT UNITED STATES ATTORNEY

3
4 TG: Would your Honor like me to accompany [Mr. Swann]
5 and make the appearance for him specially?
6

7 THE If you have a long-standing relationship with this
8 COURT: gentleman, you can go down there and make sure that
9 he's represented.
10

11 TG: Well, I'll be more than happy to inform Judge Real
12 of the position I have taken before your Honor.
13

14 THE Feel free.

15 COURT:
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Exhibit B

Exhibit B

(B)

8.6 RELATED CASE TRANSFERS - CRIMINAL CASES

8.6.1 RELATED INDICTMENTS

-- Where an information or indictment is filed concerning a defendant (1) arising out of the same transaction or series of transactions (2) involving the same defendant or (3) for other reasons would entail substantial duplication of labor if heard by a different judge, the matter shall be assigned to the calendar of the judge having the low-numbered indictment or information subject to the reservation provided in Paragraph 8.6.2.

8.6.1.1 REFERENCE TO CRIMINAL DUTY

-- JUDGE - If the judge to whom the case is assigned pursuant to paragraph 8.6.1 feels the case is not a re-related indictment or information the matter shall be referred to the Criminal Duty Judge for final determination of the nature of the questionable assignment.

8.6.2 MULTIPLE DEFENDANTS

Where the original information or indictment and the later filed information or indictment does not have a majority of common defendants this rule shall not apply.

Exhibit C

Exhibit C

(c)

1 criminal enterprise in that he unlawfully, knowingly and
2 intentionally violated §§ 841(a)(1), and 846 of Title 21, United
3 States Code, which violations were part of a continuing series of
4 violations which included, but are not limited to those alleged
5 in Counts Two, Five, Six, Seven, Nine, Eleven, Twelve, Fourteen,
6 Fifteen, Sixteen, Seventeen, Eighteen, Twenty, Twenty-One,
7 Twenty-Two, Twenty-Three, Twenty-Four and Twenty-Five.

8 These violations were undertaken by defendant PAUL TERRY
9 NICHOLS in concert with at least five other persons with respect
10 to whom defendant PAUL TERRY NICHOLS occupied a position of
11 organizer, supervisor, and manager and from which continuing
12 series of violations defendant PAUL TERRY NICHOLS obtained
13 substantial income and resources to which the United States is
14 entitled to forfeiture, including all profits obtained by
15 defendant PAUL TERRY NICHOLS from engaging in the continuing
16 criminal enterprise, and any of his interest in, claim against,
17 or property or contractual rights of any kind which afforded
18 defendant PAUL TERRY NICHOLS a source of influence over the
19 continuing criminal enterprise, including but not limited to:

20 1) The residence and premises located at 9525
21 Loma Vista, Apple Valley, California, lot 11,
22 tract 6779, as per plat recorded in book 91 of
23 maps, pages 68-73, records of San Bernardino
24 County, California;

25 2) Furniture, appliances, television, stereo
26 equipment and furnishings at 9525 Loma Vista,
27 Apple Valley, California;

- 1 3) All assets of VALLEY HOME VIDEO, 26248
- 2 National Trail Highway, Helendale, California;
- 3 4) All assets of VALLEY HOME VIDEO, 32524 Old
- 4 Woman Springs Road, Lucerne Valley, California;
- 5 5) 1984 Ford F250XL Pickup truck, vehicle
- 6 identification number 1FTHF25LXEPA49415;
- 7 6) Campershell, Series F250, vehicle
- 8 identification number 2074-8300;
- 9 7) 1984 Honda 200ES ATC, vehicle
- 10 identification number JH3TBO555EC387083;
- 11 8) 1978 Ford Bronco Custom 4x4, vehicle
- 12 identification number U15HLBA3231;
- 13 9) 1986 Mazda B2000SESP Pickup truck, vehicle
- 14 identification number JM2UF1116G0629183;
- 15 10) 1983 Honda ATC 110, vehicle identification
- 16 number JH3TBO202DC431080;
- 17 11) John Deere Tractor #3T80UJ, vehicle
- 18 identification number CH3043D007617.

19 All in violation of Title 21, United States Code, Section
20 848(a) and 853.

COUNT TWO

[21 U.S.C. §§ 846; 853]

A. Objects of the Conspiracy

Beginning in or about 1982 and continuing through 1985, in San Bernardino County, within the Central District of California and elsewhere, defendants PAUL TERRY NICHOLS, KAREN NICHOLS, PATRIC HENRY STEWART, MICHAEL FRANCIS BREOR and CHRISTEL BREOR and other co-conspirators both known and unknown to the grand jury, unlawfully, willfully and knowingly combined, conspired and agreed to commit offenses against the United States in violation of Title 21, United States Code, Section 846, namely:

1. To knowingly and intentionally manufacture methamphetamine, a Schedule II narcotic drug controlled substance, with intent to distribute, in violation of Title 21, United States Code, Section 841(a)(1);

2. To knowingly and intentionally distribute and possess with intent to distribute methamphetamine, a Schedule II narcotic drug controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

B. Means of the Conspiracy

The objects of the conspiracy were to be accomplished as follows:

1 Beginning in or about 1982 and continuing
2 through 1985, defendants PAUL TERRY NICHOLS,
3 KAREN NICHOLS, PATRIC HENRY STEWART, MICHAEL
4 FRANCIS BREOR and CHRISTEL BREOR and others
5 both known and unknown to the grand jury,
6 organized and put into operation an enterprise
7 and scheme to manufacture methamphetamine and
8 possess with intent to distribute and
9 distribute methamphetamine for profit.

10 1. Defendant PAUL TERRY NICHOLS manufactured and
11 distributed methamphetamine. Defendant PAUL TERRY NICHOLS
12 further sold the formula for the manufacturing of methamphetamine
13 to other individuals and taught them how to manufacture
14 methamphetamine.

15 2. Defendant PATRIC HENRY STEWART distributed
16 methamphetamine for defendant PAUL TERRY NICHOLS. Defendant
17 PATRIC HENRY STEWART further manufactured methamphetamine.

18 3. Defendant MICHAEL FRANCIS BREOR distributed
19 methamphetamine and purchased chemicals and equipment for the
20 manufacturing of methamphetamine

21 4. Defendant KAREN NICHOLS picked up quantities of
22 methamphetamine from methamphetamine manufacturing lab sites and
23 delivered the methamphetamine for distribution.

24 5. Defendant CHRISTEL BREOR purchased chemicals to
25 manufacture methamphetamine and delivered money which constituted
26 the proceeds from the distribution of methamphetamine.

1 C. Overt Acts

2 In furtherance of the conspiracy and to effectuate the
3 objects thereof, defendants PAUL TERRY NICHOLS, KAREN NICHOLS,
4 PATRIC HENRY STEWART, MICHAEL FRANCIS BREOR and CHRISTEL BREOR,
5 committed various overt acts within the Central District of
6 California and elsewhere, including but not limited to the
7 following:

- 8 1. In or about August 1982, defendant PAUL
9 TERRY NICHOLS manufactured methamphetamine.
- 10 2. In or about August 1982, defendant PATRIC
11 HENRY STEWART distributed approximately two
12 ounces of methamphetamine.
- 13 3. In or about September 1982, defendants
14 PATRIC HENRY STEWART and MICHAEL FRANCIS BREOR
15 distributed approximately two ounces of
16 methamphetamine.
- 17 4. Between in or about September and November
18 1982, defendant MICHAEL FRANCIS BREOR
19 distributed approximately twelve ounces of
20 methamphetamine.
- 21 5. In or about November 1982, defendant PAUL
22 TERRY NICHOLS manufactured approximately four
23 pounds of methamphetamine.
- 24 6. In or about November 1982, defendants PAUL
25 TERRY NICHOLS and PATRIC HENRY STEWART
26 distributed methamphetamine.
- 27 7. In or about November 1982, defendant PAUL
28 TERRY NICHOLS sold the formula for the
manufacturing of methamphetamine.

1 8. In or about November 1982, defendant PAUL
2 TERRY NICHOLS gave another individual
3 approximately \$10,000 to purchase equipment and
4 chemicals to manufacture methamphetamine.

5 9. In or about November 1982, defendant
6 PATRIC HENRY STEWART purchased chemicals and
7 equipment for the manufacturing of
8 methamphetamine.

9 10. In or about December 1982, defendant
10 PATRIC HENRY STEWART traveled to Stark,
11 Minnesota from Apple Valley, California.

12 11. In or about December 1982, defendant
13 PATRIC HENRY STEWART manufactured approximately
14 two pounds of methamphetamine in Minnesota.

15 12. In or about December 1982, defendant PAUL
16 TERRY NICHOLS distributed approximately one
17 ounce of methamphetamine.

18 13. In or about January 1983, defendant PAUL
19 TERRY NICHOLS manufactured approximately 40
20 ounces of methamphetamine.

21 14. In or about January 1983, defendant PAUL
22 TERRY NICHOLS distributed approximately 42
23 ounces of methamphetamine.

24 15. In or about January 1983, defendant PATRIC
25 HENRY STEWART distributed approximately 24
26 ounces of methamphetamine.

16. In or about February 1983, defendant PAUL TERRY NICHOLS manufactured approximately 80 ounces of methamphetamine.

17. In or about February 1983, defendant PAUL TERRY NICHOLS distributed approximately 80 ounces of methamphetamine.

18. In or about February 1983, defendant PATRIC HENRY STEWART possessed with intent to distribute approximately four (4) pounds of methamphetamine.

19. In or about February 1983, defendant PAUL TERRY NICHOLS possessed with intent to distribute approximately two (2) pounds of methamphetamine.

20. In or about March 1983, defendant PAUL TERRY NICHOLS manufactured approximately 120 ounces of methamphetamine.

21. In or about March 1983, defendant PAUL TERRY NICHOLS distributed approximately 120 ounces of methamphetamine.

22. In or about March 1983, defendant PAUL TERRY NICHOLS taught a second individual how to manufacture methamphetamine.

23. In or about June 1983, defendants PAUL TERRY NICHOLS and PATRIC HENRY STEWART distributed approximately 18 ounces of methamphetamine.

1 24. In or about June 1983, defendant PATRIC
2 HENRY STEWART traveled from Apple Valley,
3 California to Maplewood, Minnesota.

4 25. In or about June 1983, defendant PATRIC
5 HENRY STEWART received approximately four (4)
6 pounds of methamphetamine.

7 26. In or about July 1983, defendant PAUL
8 TERRY NICHOLS manufactured methamphetamine.

9 27. In or about October 1983, defendant PAUL
10 TERRY NICHOLS arranged for the purchase of
11 chemicals and equipment for the manufacturing
12 of methamphetamine.

13 28. In or about October 1983, defendant PAUL
14 TERRY NICHOLS taught a third individual how to
15 manufacture methamphetamine.

16 29. In or about October 1983, defendant PAUL
17 TERRY NICHOLS manufactured over 100 ounces of
18 methamphetamine.

19 30. In or about October 1983, defendants PAUL
20 TERRY NICHOLS, KAREN NICHOLS and PATRIC HENRY
21 STEWART possessed with intent to distribute
22 over 100 ounces of methamphetamine.

23 31. In or about the latter part of 1983,
24 defendant Christel Breor purchased chemicals
25 and equipment for the manufacturing of
26 methamphetamine.

1 32. In or about January 1984, defendant PATRIC
2 HENRY STEWART and MICHAEL FRANCIS BREOR
3 purchased chemicals for the manufacturing of
4 methamphetamine.

5 33. In or about January 1984, defendant PAUL
6 TERRY NICHOLS manufactured approximately
7 approximately 700 ounces of methamphetamine.

8 34. In or about January 1984, defendants PAUL
9 TERRY NICHOLS, KAREN NICHOLS and PATRIC HENRY
10 STEWART possessed with intent to distribute
11 methamphetamine.

12 35. In or about February 1984, defendant
13 MICHAEL FRANCIS BREOR gave approximately
14 \$10,000 to another individual.

15 36. In or about February 1984, defendant
16 CHRISTEL BREOR possessed approximately \$150,000
17 which were the proceeds from the sale of
18 methamphetamine.

19 37. In or about March 1984, defendant PAUL
20 TERRY NICHOLS manufactured approximately 1,200
21 ounces of methamphetamine.

22 38. In or about March 1984, defendant PAUL
23 TERRY NICHOLS possessed with intent to
24 distribute approximately 1,200 ounces of
25 methamphetamine.

26 39. In or about March 1984, defendant KAREN
27 NICHOLS possessed with intent to distribute
28 approximately 400 ounces of methamphetamine.

1 40. In or about July 1984, defendant PATRIC
2 HENRY STEWART purchased chemicals and equipment
3 for the manufacturing of methamphetamine.

4 41. Between in or about May 1984 and July
5 1985, defendant MICHAEL FRANCIS BREOR purchased
6 approximately 50 gallons of N-Methylformamide
7 for the manufacturing of methamphetamine.

8 The Grand Jury further alleges that the following property
9 which constitutes the proceeds of, or was derived from narcotics
10 trafficking is subject to forfeiture pursuant to Title 21, United
11 States Code, Section 853(a)(1):

12 Defendant Paul Terry Nichols.

13 1) The residence and premises located at 9525
14 Loma Vista, Apple Valley, California, lot 11,
15 tract 6779, as per plat recorded in book 91 of
16 maps, pages 68-73, records of San Bernardino
17 County, California;

18 2) Furniture, appliances, television, stereo
19 equipment and furnishings at 9525 Loma Vista,
20 Apple Valley, California;

21 3) All assets of VALLEY HOME VIDEO, 26248
22 National Trail Highway, Helendale, California;

23 4) All assets of VALLEY HOME VIDEO, 32524 Old
24 Woman Springs Road, Lucerne Valley, California;

25 5) 1984 Ford F250XL Pickup truck, vehicle
26 identification number 1FTHF25LXEPA49415;

- 6) Campershell, Series F250, vehicle
identification number 2074-8300;
- 7) 1984 Honda 200ES ATC, vehicle
identification number JH3TBO555EC387083;
- 8) 1978 Ford Bronco Custom 4x4, vehicle
identification number U15HLBA3231;
- 9) 1986 Mazda B2000SESP Pickup truck, vehicle
identification number JM2UF1116GO629183;
- 10) 1983 Honda ATC 110, vehicle identification
number JH3TBO202DC431080;
- 11) John Deere Tractor #3T80UJ, vehicle
identification number CH3043D007617.

Defendant Patric Henry Stewart

- 1) Furniture, appliances, television, stereo
equipment and furnishings at 26275 Laramie
Road, Apple Valley, California;
- 2) 1959 Chevrolet Corvette, vehicle
identification number J595102531;
- 3) 1979 Cadillac Fleetwood Limousine, vehicle
identification number 6F33S99188049;
- 4) 1941 Packard 120, vehicle identification
number I492-7798;
- 5) 1984 Sleet Craft, 24 foot Day Cruiser and
trailer, vehicle identification number
SLEE3418M83H;
- 6) 1975 Pontiac Grand Villa Brougham, vehicle
identification number 2R67S5P231087;

- 7) 1970 Triumph GT6+, vehicle identification
number KC77749L;
- 8) 1967 Chevrolet Camaro, vehicle
identification number 124677L159483;
- 9) 1929 International Tudor truck, vehicle
identification number 175403;
- 10) 1930 Ford Model A, vehicle identification
number A342709;
- 11) 1983 Ford F3500XL 4x4 Pickup truck,
vehicle identification number 2FTJW36LXDCB10462;
- 12) Craftsman mini-tractor, vehicle
identification number 3543S01027;
- 13) 1982 Yamaha motorcycle, vehicle
identification number 3Y0102695;
- 14) 1983 Honda ATC 200X, vehicle
identification number JM3TBO52XDC300752;
- 15) 1983 Honda FL250 Odyssey Sandbuggy,
vehicle identification number
JH3TBO0408DC609006;
- 16) 1986 Honda Goldwing motorcycle, vehicle
identification number GL1-2014855.
- 17) 1984 Big Tex Flatbed trailer, vehicle
identification number 16VPW162BE2G01090.

1 Defendant Michael Francis Breor

2 1) The residence and premises located at 9525
3 Corto Road, Apple Valley, California, lot 43,
4 tract 6778, as per plat recorded in book 91 of
5 maps, pages 77-83, records of San Bernardino
6 County;

7 2) Furniture, appliances, television, stereo
8 equipment and furnishings at 9525 Corto Road,
9 Apple Valley, California;

10 3) 1985 Ford Bronco II, 4x4, vehicle
11 identification number 1FMCU14SXFUD31152;

12 4) Kawasaki 550 Jet Ski, vehicle
13 identification number KAW25923K485;

14 5) Kawasaki 550 Jet Ski, vehicle
15 identification number KAW25972K485;

16 6) Zieman Trailer, vehicle identification
17 number 1ZCS10012FW236501:

18 7) 1984 Yamaha 200 ATC, vehicle
19 identification number JY452H001F0005597;

20 8) 1984 Honda ATC 200ES, vehicle
21 identification number JH3T30551EC515934;

22 9) 1985 Dana Classic Day Cruiser, vehicle
23 identification number DNX22114M85K;

24 10) Boat trailer, vehicle identification
25 number 1H9BT2224F105191:

26 11) 1985 Suzuki 125 ATC, vehicle
27 identification JSATF41A1D2113387.

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1 12) 1984 Sleaf Craft, 24 foot Day Cruiser and trailer,
2 vehicle identification number SLEE3418M83H;
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COUNT THREE

[21 U.S.C. § 841(a)(1)]

In or about September 1982, in San Bernardino County, within the Central District of California, defendants PATRIC HENRY STEWART and MICHAEL FRANCIS BREOR, knowingly and intentionally distributed a quantity of methamphetamine, that is, approximately two (2) ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT FOUR

[21 U.S.C. § 841(a)(1)]

In or about October 1982, in San Bernardino County, within the Central District of California, defendant MICHAEL FRANCIS BREOR, knowingly and intentionally distributed a quantity of methamphetamine, that is, over two (2) ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT FIVE

[21 U.S.C. § 841(a)(1)]

In or about November 1982, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS, knowingly and intentionally manufactured a quantity of methamphetamine, that is, approximately two (2) pounds of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT SIX

[21 U.S.C. § 841(a)(1)]

In or about November 1982, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS, knowingly and intentionally manufactured a quantity of methamphetamine, that is, approximately two pounds of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT SEVEN

[21 U.S.C. § 841(a)(1)]

In or about November 1982, in San Bernardino County, within the Central District of California, defendants PAUL TERRY NICHOLS and PATRIC HENRY STEWART knowingly and intentionally distributed a quantity of methamphetamine, that is, approximately two (2) pounds of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT EIGHT

[18 U.S.C. § 1952]

In or about December 1982, defendant PATRIC HENRY STEWART traveled in interstate commerce between Apple Valley, California, San Bernardino County, in the Central District of California, and Stark, Minnesota, with the intent to promote, manage, establish, carry on and facilitate an unlawful activity, namely the manufacturing of methamphetamine and thereafter promoted and facilitated that unlawful activity.

COUNT NINE

[21 U.S.C. § 841(a)(1)]

In or about January 1983, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS, knowingly and intentionally manufactured a quantity of methamphetamine, that is, approximately forty (40) ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT TEN

[21 U.S.C. § 841(a)(1)]

In or about January 1983, in San Bernardino County, within the Central District of California, defendant PATRIC HENRY STEWART, knowingly and intentionally distributed a quantity of methamphetamine, that is, approximately twenty-four (24) ounces of methamphetamine, a Schedule II narcotic controlled drug substance.

COUNT ELEVEN

[21 U.S.C. § 841(a)(1)]

In or about February 1983, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS, knowingly and intentionally manufactured a quantity of methamphetamine, that is, approximately forty (40) ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT TWELVE

[21 U.S.C. § 841(a)(1)]

In or about February 1983, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS, knowingly and intentionally manufactured a quantity of methamphetamine, that is, approximately forty (40) ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT THIRTEEN

[21 U.S.C. § 841(a)(1)]

In or about February 1983, in San Bernardino County, within the Central District of California, defendant PATRIC HENRY STEWART, knowingly and intentionally possessed with intent to distribute a quantity of methamphetamine, that is, approximately four (4) pounds of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT FOURTEEN

[21 U.S.C. § 841(a)(1)]

In or about February 1983, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS, knowingly and intentionally possessed with intent to distribute a quantity of methamphetamine, that is, approximately two (2) pounds of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT FIFTEEN

[21 U.S.C. § 841(a)(1)]

In or about March 1983, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS, knowingly and intentionally manufactured a quantity of methamphetamine, that is, approximately forty (40) ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT SIXTEEN

[21 U.S.C. § 841(a)(1)]

In or about March 1983, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS, knowingly and intentionally manufactured a quantity of methamphetamine, that is, approximately forty (40) ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT SEVENTEEN

[21 U.S.C. § 841(a)(1)]

In or about March 1983, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS, knowingly and intentionally manufactured a quantity of methamphetamine, that is, approximately forty (40) ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT EIGHTEEN

[21 U.S.C. § 841(a)(1)]

In or about June 1983, in San Bernardino County, within the Central District of California, defendants PAUL TERRY NICHOLS and PATRIC HENRY STEWART, knowingly and intentionally distributed a quantity of methamphetamine, that is, approximately eighteen (18) ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT NINETEEN

[18 U.S.C. § 1952]

In or about June 1983, defendant PATRIC HENRY STEWART traveled in interstate commerce between Apple Valley, California, San Bernardino County, in the Central District of California, and Maplewood, Minnesota, with the intent to promote, manage, establish, carry on and facilitate an unlawful activity, namely narcotics trafficking, and thereafter promoted and facilitated that unlawful activity.

COUNT TWENTY

[21 U.S.C. § 841(a)(1)]

In or about October 1983, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS, knowingly and intentionally manufactured a quantity of methamphetamine, that is, over 100 ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT TWENTY-ONE

[21 U.S.C. § 841(a)(1)]

In or about October 1983, in San Bernardino County, within the Central District of California, defendants PAUL TERRY NICHOLS KAREN NICHOLS and PATRIC HENRY STEWART, knowingly and intentionally possessed with intent to distribute a quantity of methamphetamine, that is, over 100 ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT TWENTY-TWO

[21 U.S.C. § 841(a)(1)]

In or about January 1984, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS knowingly and intentionally manufactured a quantity of methamphetamine, that is, approximately 700 ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT TWENTY-THREE

[21 U.S.C. § 841(a)(1)]

In or about January 1984, in San Bernardino County, within the Central District of California, defendants PAUL TERRY NICHOLS, KAREN NICHOLS and PATRIC HENRY STEWART knowingly and intentionally possessed with intent to distribute a quantity of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT TWENTY-FOUR

[21 U.S.C. § 841(a)(1)]

In or about March 1984, in San Bernardino County, within the Central District of California, defendant PAUL TERRY NICHOLS knowingly and intentionally manufactured a quantity of methamphetamine, that is, approximately 1,200 ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT TWENTY-FIVE

[21 U.S.C. § 841(a)(1)]

In or about March 1984, in San Bernardino County, within the Central District of California, defendants PAUL TERRY NICHOLS and KAREN NICHOLS knowingly and intentionally possessed with intent to distribute a quantity of methamphetamine, that is, over 100 ounces of methamphetamine, a Schedule II narcotic drug controlled substance.

COUNT TWENTY-SIX

[26 U.S.C. § 7201]

On or about the 20th day of August, 1984, in the Central District of California, defendant PAUL TERRY NICHOLS, a resident of San Bernardino County, willfully and knowingly attempted to evade and defeat a large part of the income tax due and owing by him to the United States for the calendar year 1983, by doing and causing the preparation, signing and mailing, in the Central District of California, of a false and fraudulent income tax return, which was filed with the Internal Revenue Service, wherein defendant PAUL TERRY NICHOLS stated that his taxable income for said calendar year was \$87,453.00 and that the amount of income tax due and owing thereon was the sum of \$18,795.00, whereas, as defendant PAUL TERRY NICHOLS then and there well knew, his taxable income for said calendar year was approximately \$334,333.00 upon which defendant PAUL TERRY NICHOLS owed to the United States an income tax of \$125,525.00.

COUNT TWENTY-SEVEN

[26 U.S.C. § 7201]

On or about the 15th day of April, 1985, in the Central District of California, defendant PAUL TERRY NICHOLS, a resident of San Bernardino County, willfully and knowingly attempted to evade and defeat a large part of the income tax due and owing by him to the United States for the calendar year 1984, by doing and causing the preparation, signing and mailing, in the Central District of California, of a false and fraudulent income tax return, which was filed with the Internal Revenue Service, wherein defendant PAUL TERRY NICHOLS stated that his taxable income for said calendar year was \$92,568.00 and that the amount of income tax due and owing thereon was the sum of \$24,080.00, whereas, as defendant PAUL TERRY NICHOLS then and there well knew, his taxable income for said calendar year was approximately \$276,304.29 upon which defendant PAUL TERRY NICHOLS owed to the United States an income tax of \$119,552.00.

COUNT TWENTY-EIGHT

[26 U.S.C. § 7201]

On or about the 27th day of September, 1984, in the Central District of California, defendant PATRIC HENRY STEWART, a resident of San Bernardino County, willfully and knowingly attempted to evade and defeat a large part of the income tax due and owing by him to the United States for the calendar year 1983, by doing and causing the preparation, signing and mailing, in the Central District of California, of a false and fraudulent income tax return, which was filed with the Internal Revenue Service, wherein defendant PATRIC HENRY STEWART stated that his taxable income for said calendar year was \$-0- and that the amount of income tax due and owing thereon was the sum of \$-0-, whereas, as defendant PATRIC HENRY STEWART then and there well knew, his taxable income for said calendar year was approximately \$192,406.00 upon which defendant PATRIC HENRY STEWART owed to the United States an income tax of \$80,568.00.

COUNT TWENTY-NINE

[26 U.S.C. § 7201]

On or about the 15th day of April, 1985, in the Central District of California, defendant PATRIC HENRY STEWART, a resident of San Bernardino County, willfully and knowingly attempted to evade and defeat the income tax due and owing by him to the United States for the calendar year 1984, by failing to report on an income tax return with the Internal Revenue Service, taxable income for said calendar year in the amount of approximately \$114,337.00 upon which defendant PATRIC HENRY STEWART owed to the United States an income tax of \$47,869.00.

COUNT THIRTY

[26 U.S.C. § 7201]

On or about the 15th day of April, 1984, in the Central District of California, defendant MICHAEL FRANCIS BREOR, a resident of San Bernardino County, willfully and knowingly attempted to evade and defeat the income tax due and owing by him to the United States for the calendar year 1983, by failing to report on an income tax return with the Internal Revenue Service, taxable income for said calendar year in the amount of approximately \$25,462.00 for which defendant MICHAEL FRANCIS BREOR owed to the United States an income tax of \$4,054.00.

COUNT THIRTY-ONE

[26 U.S.C. § 7201]

On or about the 15th day of April, 1985, in the Central District of California, defendant MICHAEL FRANCIS BREOR, a resident of San Bernardino County, willfully and knowingly attempted to evade and defeat the income tax due and owing by him to the United States for the calendar year 1984, by failing to report on an income tax return with the Internal Revenue Service, taxable income for said calendar year in the amount of approximately \$525,294.00 for which defendant MICHAEL FRANCIS BREOR owed to the United States an income tax of \$227,958.00.

A TRUE BILL

Foreperson

ROBERT C. BONNER
United States Attorney

ROBERT L. BROSIO
Assistant United States Attorney
Chief, Criminal Division

Exhibit O

Exhibit D

(D)

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

June 1987

Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

PATRIC HENRY STEWART,

Defendant.

) NO. CR 87-709

) I N D I C T M E N T

) [26 U.S.C. § 5861(d);

) Possession of An

) Unregistered Firearm;

) Forfeiture of An Unregistered
) Firearm]

The Grand Jury charges:

COUNT ONE

[26 U.S.C. § 5861(d)]

On or about May 14, 1986, in San Bernardino County within the Central District of California, defendant PATRIC HENRY STEWART knowingly possessed a firearm, that is, an Action Arms Ltd., I.M.I. Uzi, 9mm rifle, serial number SA13733, nine (9) inch barrel length, which had not been registered to him in the National Firearms Registration and Transfer Record as required by Chapter 53, Title 326, United States Code; in violation of Title 26, United States Code, Section 5861(d) and 5871.

GG/bzb

1 The Grand Jury further alleges that the property in question,
2 to wit, an Action Arms Ltd., I.M.I. Uzi, 9mm, serial number
3 SA13733, nine (9) inch barrel length, is subject to forfeiture
4 pursuant to the provisions of Title 26, United States Code,
5 Section 5872.

6
7 A TRUE BILL

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Foreperson

10 ROBERT C. BONNER
11 United States Attorney

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13 ROBERT L. BROSIO
14 Assistant United States Attorney
15 Chief, Criminal Division
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CERTIFICATE OF SERVICE BY MAIL

I, Bernadette Baskerville, declare:

That I am a citizen of the United States and resident or employed in Los Angeles County, California; that my business address is Office of United States Attorney, United States Courthouse, 312 North Spring Street, Los Angeles, California 90012; that I am over the age of eighteen years, and am not a party to the above-entitled action;

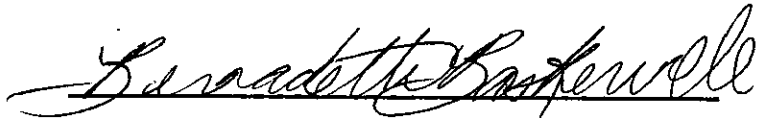
That I am employed by the United States Attorney for the Central District of California who is a member of the Bar of the United States District Court for the Central District of California, at whose direction the service by mail described in this Certificate was made; that on January 8, 1988, I deposited in the United States mails in the United States Courthouse at 312 North Spring Street, Los Angeles, California, in the above-entitled action, in an envelope bearing the requisite postage, a copy of MOTION FOR LOW-NUMBER ASSIGNMENT; MEMORANDUM OF POINTS AND AUTHORITIES; DECLARATION; EXHIBITS

addressed to: SEE ATTACHED

at their last known address, at which place there is a delivery service by United States mail.

This Certificate is executed on January 8, 1988 at Los Angeles, California.

I certify under penalty of perjury that the foregoing is true and correct.



SERVICE LIST

Elsa Leyva
Deputy Federal Public Defender
1500 U.S. Courthouse
312 North Spring Street
Los Angeles, California 90012

Donald C. Randolph, Esq.
2566 Overland Avenue
Suite 700
Los Angeles, California 90064

Michael Pancer, Esq.
Home Federal Building
Suite 1135
625 Broadway
San Diego, California